

## 48A C.J.S. Judges § 145

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### VI. Authority, Powers, and Duties

#### A. Introduction

§ 145. Powers and duties as those of court or judge; acts of judge as acts of court

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, [Judges](#)  23

**The authority and powers of a judge are incident to, and grow out of, the jurisdiction of the court itself, and the act of a judge within his or her jurisdiction may constitute an act of the court.**

The authority and powers of a judge are incident to, and grow out of, the jurisdiction of the court itself.<sup>1</sup> In this regard, it should be noted that jurisdiction, in its narrow sense, is something possessed by courts, not by judges or individuals; the judge is merely an officer of the court, but a judge is not the court itself.<sup>2</sup> Accordingly, although it is incorrect to suggest that the authority of a judge presiding over a case has no bearing on the validity of the proceeding, it is also incorrect to speak of jurisdiction of the judge outside the realm of the jurisdiction of the court in which he or she sits.<sup>3</sup>

Although a judge is not a court,<sup>4</sup> the act of a judge within his or her jurisdiction may constitute the act of the court.<sup>5</sup>

Where the state constitution expressly vests the authority to issue orders as are necessary for the general supervision and control of courts in the "court," unilateral action by the chief justice of the state supreme court is not synonymous with action by the "court."<sup>6</sup>

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## Footnotes

- 1 Cal.—*Magallan v. Superior Court*, 192 Cal. App. 4th 1444, 121 Cal. Rptr. 3d 841 (6th Dist. 2011).  
Conn.—*73-75 Main Ave., LLC v. PP Door Enterprise, Inc.*, 120 Conn. App. 150, 991 A.2d 650 (2010).  
Fla.—*Baudanza v. Baudanza*, 78 So. 3d 656 (Fla. 4th DCA 2012).  
Tex.—*Davis v. State*, 956 S.W.2d 555 (Tex. Crim. App. 1997).
- 2 Tex.—*Ex parte George*, 913 S.W.2d 523 (Tex. Crim. App. 1995).
- 3 Tex.—*Davis v. State*, 956 S.W.2d 555 (Tex. Crim. App. 1997).
- 4 Ohio—*Barner v. Barner*, 19 Ohio App. 458, 1925 WL 2993 (9th Dist. Lorain County 1925).  
Tex.—*Davis v. State*, 956 S.W.2d 555 (Tex. Crim. App. 1997).
- 5 Iowa—*State v. Parrish*, 232 N.W.2d 511 (Iowa 1975).  
Minn.—*State ex rel. La Jesse v. Meisinger*, 258 Minn. 297, 103 N.W.2d 864 (1960).  
Tex.—*Davis v. State*, 956 S.W.2d 555 (Tex. Crim. App. 1997).
- 6 Ala.—*Ex parte State ex rel. James*, 711 So. 2d 952 (Ala. 1998), on reh'g, (Apr. 10, 1998).